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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,739	11/25/2003	John V. H. Roberts	03007US	7310
7590 06/03/2005			EXAMINER	
Rodel Holdings, Inc. Suite 1300 1105 North Market Street Wilmington, DE 19899			WILSON, LEE D	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/722,739

Applicant(s)

ROBERTS, JOHN V. H.

Examiner

LEE D WILSON

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 1 and 7 are apparatus claims which are claiming a method or process step of how the apparatus is manufactured. This renders the claim indefinite because methods and apparatus steps are not claimed together. See "forming . . . agent." In claim 1, lines 3&4 and claim 7, lines 6&7.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 7, are rejected under 35 U.S.C. 102(e) as being anticipated by Swisher et al (2004/0102141a1).

Swisher et al discloses an apparatus having a polishing pad (see entire patent) with a window is formed from a reaction of an aliphatic polyisocyanate, a hydroxyl-containing material and a curing agent (par.56&57). In regard to claim 2 see par. 89 table B. In regard to claim 3 see par. 56.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swisher et al (2004/0102141a1) in view of Roberts et al (6387312).

b. Swisher et al are discussed.

c. Swisher et al do not disclosed a curing agent is selected from the group comprising: polydiamine, diol, triol, tetraol, and mixtures thereof

d. Roberts et al disclose a cmp polishing pad having window (12&13), a curing agent is selected from the group comprising: polydiamine, diol, triol, tetraol, and mixtures thereof (col.4, lines 12-17) which alternative curing agents used in making pads with windows.

e. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Swisher et al device by providing a curing agent is selected from the group comprising: polydiamine, diol, triol, tetraol, and mixtures thereof as taught by Roberts et al which alternative curing agents used in making pads with windows.

6. Claims 6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swisher et al (2004/0102141a1) in view of Wright et al (6832950).

f. Swisher et al are discussed.

- g. Swisher et al do not disclosed a cmp pad with a window has an optical transmission of at east 21% over a wavelength range of 400-750 nm.
- h. Wright et al disclose cmp pad with a window has an optical transnission of at east 21% over a wavelength range of 400-750 nm. (col.6, lines 42-65) which shows alternative wavelength ranges for cmp pads with windows.
- i. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Swisher et al device by providing a cmp pad with a window has an optical transnission of at east 21% over a wavelength range of 400-750 nm as taught by Wright et al which shows alternative wavelength ranges for cmp pads with windows.
- j. In regard to claims 8, Swisher et al do not teach a cmp pad with a window being used in end point detection.
- k. Wright et al disclose cmp pad with a window being used in end point detection (col.1, lines 30-31 and col.6, line 58) which shows alternative polishing procedures for cmp pads with windows.
- l. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Swisher et al device by providing a cmp pad with a window using end point detection as taught by Wright et al which shows alternative polishing procedures for cmp pads with windows.

Allowable Subject Matter

7. Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Turner et al and Prasad disclose a device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

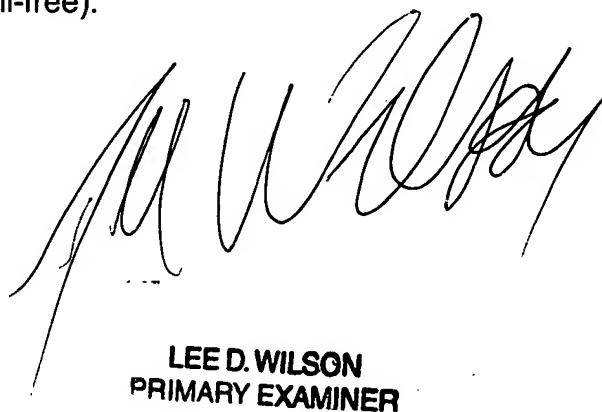
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

April 25, 2005



LEE D. WILSON
PRIMARY EXAMINER